

**ภาคผนวก ค**

**AGREEMENT BETWEEN THE GOVERNMENT OF ISLAMIC REPUBLIC OF  
PAKISTAN, THE TRANSITIONAL ISLAMIC STATE OF AFGHANISTAN  
AND THE UNITED NATIONS HIGH COMMISSIONER FOR  
REFUGEES GOVERNING THE REPATRIATION OF  
AFGHAN CITIZENS LIVING IN PAKISTAN  
(4 March 2003)**

The Transitional Islamic State of Afghanistan and the Government of the Islamic Republic of Pakistan (“the Government”) and the United Nations High Commissioner for Refugees (“UNHCR”), hereinafter referred to as “the Parties”,

(a) Recalling that the United Nations General Assembly Resolution 428 (V) of 14 December 1950, which adopted the Statute of UNHCR, ascribes to the High Commissioner the function of providing international protection to refugees and of seeking permanent solutions for the problems of refugees, inter alia, by promoting and facilitating their voluntary repatriation and reintegration in their country of origin;

(b) Recognizing that voluntary repatriation, where feasible, constitutes the preferred durable solution for the problems of refugees, and that the attainment of this solution requires that refugees shall return in conditions of safety and dignity;

(c) Nothing that Conclusions 18 (XXXI) and 40 (XXXVI) of the Executive Committee of the High Commissioner’s Program constitute internationally accepted principles and standards governing the voluntary repatriation of refugees;

(d) Nothing the desire of the Governments and UNHCR to work with each other to achieve observance of the internationally recognized human rights principles and in particular those relating to the repatriation of refugees and displaced person;

(e) Recalling that the “Agreement on Provisional Arrangement in Afghanistan Pending the reestablishment of Permanent Government Institutions” signed, under the auspices of the United Nations, in Bonn on 5 December 2001 has laid the foundation for achieving lasting peace, national unity, reconciliation and social and economic development in Afghanistan and, noting the progress made towards this end by the establishment of the Islamic Transitional Authority of Afghanistan on 22 June 2002, following the conclusion of the Emergency Loya Jirga in Kabul;

(f) Welcoming the exceptionally high number of Afghan citizens who voluntarily returned in safety and dignity to Afghanistan in 2002;

(g) Resolving to cooperate in order to facilitate and assist the voluntary repatriation in conditions of safety and dignity and reintegration in Afghanistan of Afghan citizens now in Pakistan; and

(h) Recognizing the need to establish a framework for such co-operation and for joint planning and implementation of coordinated programs for voluntary repatriation of Afghan citizens in Pakistan with the support of the international community;

(i) Recognizing the need to define the specific procedures and modalities for the voluntary repatriation and subsequent reintegration in Afghanistan of the Afghan citizens in Pakistan with the assistance of the international community through UNHCR as may be supported, where appropriate, by other United Nations agency intergovernmental and non-governmental organizations;

Have reached the following understandings:

#### **Article 1**

##### **Establishment of a Tripartite Commission**

The Commission (henceforth referred to as the Commission) for the Voluntary Repatriation of Afghan citizens from Pakistan is hereby established by the Parties.

## **Article 2**

### **Composition of the Commission**

1. The Commission shall comprise of six members, each of the Parties shall designate two members.

2. Any Member of the Commission may, when attending any meeting or other business of the Commission, be accompanied to its meeting by advisors.

3. Where a Member is unable to attend to any business of the Commission, that Member shall designate a substitute.

4. The Commission may, whenever deemed necessary or appropriate, and subject to agreement by all its members, invite relevant persons or organizations to participate in its deliberations in an advisory or observer capacity.

## **Article 3**

### **Role and Function of the Commission**

The principal objective of the Commission shall be to facilitate the voluntary repatriation in conditions of safety and dignity of Afghan citizens, and their reintegration in Afghanistan. The Commission shall determine the policies and advise the Parties on the measures to achieve this objective.

## **Article 4**

### **Meeting of the Commission**

1. The Commission should be convened quarterly. Furthermore, such meeting may be convened at the request of any of the Parties and may be held alternately in Afghanistan and Pakistan or at any mutually agreed venue.

2. The meeting of the Commission shall be chaired on a basis. The Government of the Islamic Republic of Pakistan shall chair the first meeting.

3. The Commission shall adopt this own Rules of Procedure.

4. The decision of the Commission shall be made on the basis of mutual agreement of the members.

#### **Article 5**

##### **Ad Hoc Tripartite Arrangements/Liaison Officers**

The Government shall designate Liaison Officers at respective Embassies in Kabul and Islamabad and in other locations, if necessary, with powers to deal with unforeseen operational issues on an ad hoc basis.

#### **Article 6**

##### **Voluntary Character of Repatriation**

1. The Parties hereby reaffirm that the repatriation of Afghan citizens who have sought refuge in Pakistan shall only take place at their freely express wish based on their knowledge of the conditions relating to voluntary repatriation.

2. Screening in accordance with the refugee definition agreed to in the screening Agreement concluded between the Government of the Islamic Republic of Pakistan and UNHCR on 2 August, 2001 will be carried out for the residual caseload to identify Afghan citizens with a continued need of international protection and distinguish them from economic migrants. This exercise will only be implemented after the completion of the UNHCR assisted voluntary repatriation program projected for the next years, subject to a yearly review by the Commission.

#### **Article 7**

##### **Freedom of Choice of Destination**

The Transitional Islamic State of Afghanistan undertakes that Afghan citizens shall be free to return to, and settle in, their former places of residence or any other place of their choice within Afghanistan.

#### **Article 8**

##### **Return in Safety and with Dignity**

1. The Parties agree that the voluntary repatriation program shall assist Afghan citizens under this Agreement to return to their final destination in Afghanistan in safety, freedom and with dignity.

2. Whereas the Government of Pakistan shall retain responsibility for the safety and security of Afghan citizens while on the territory of Pakistan including in urban areas, camp, staging areas and during convoy movements en route to the designated border crossing points, the Transitional Islamic State of Afghanistan shall be responsible for the safety and security of the returnees once within the territory of Afghanistan.

#### **Article 9**

##### **Assurances upon Return**

1. The Transitional Islamic State of Afghanistan shall, together with other relevant parties, take the necessary measures to ensure that Afghan citizens can repatriate without any fear of harassment, intimidation, persecution, discrimination, prosecution or any punitive measures whatsoever on account of their having left, or remained outside of Afghanistan.

2. The Transitional Islamic State of Afghanistan recalls in this respect the guarantees contained in Decree No.297, dated 13.03.1381 (3 June 2002), on the Dignified Return of Afghan Refugees, which fully applies to Afghan citizens returning from Pakistan under this Agreement.

#### **Article 10**

##### **Juridical Status and Equivalency**

The Transitional Islamic State of Afghanistan accepts to recognize the legal status, including changes thereto, of Afghan citizens repatriating from Pakistan, including births, deaths, adoptions, marriage and divorce. The Transitional Islamic State of Afghanistan shall also seek to accord recognition, as appropriate and in accordance with the law, to the equivalency of academic and vocational skills, diplomas and certificates obtained by Afghan citizens while in Pakistan.

#### **Article 11**

##### **UNHCR's Supervisory Role**

UNHCR's Supervisory Role in promoting, facilitating, coordinating and monitoring the voluntary repatriation of Afghan citizens in order to ensure that repatriation is voluntary and carried out in conditions of safety and dignity shall be fully respected by the Government.

## Article 12

### International Access Before and After Repatriation

1. In order to carry out effectively its international protection and assistance functions and to facilitate the implementation of this Agreement, UNHCR shall be granted free and unhindered access to all Afghan citizens in Pakistan falling under the scope of this Agreement. Likewise, UNHCR shall be granted free and unhindered access to all returnees wherever they may be located in Afghanistan, and Afghan returnees shall be granted free and unhindered access to UNHCR.

2. The Transitional Islamic State of Afghanistan shall, in particular, extend full cooperation to UNHCR to allow UNHCR to monitor the treatment of returnees in accordance with humanitarian and human right standards, including the implementation of the commitments contained in this Agreement and in the Decree No. 297.

3. In order to enable UNHCR to carry out its monitoring functions in accordance with paragraphs 1. and 2. of this Article, The Transitional Islamic State of Afghanistan shall inform UNHCR in accordance with national and international law, of all case of arrest, detention and legal proceedings involving returnees and shall provide UNHCR with the relevant legal documentation on these case as well as grant UNHCR free access to returnees under arrest or in detention.

4. Inter-governmental or non-governmental organizations implementing humanitarian assistance programs on behalf of UNHCR shall have access to Afghan citizens and returnees in the context of this Agreement, as appropriate and in prior consultation with the Parties.

## Article 13

### Spontaneous Return

The Parties hereby recognize that all assurance, guarantees and other provisions set out in this Agreement which govern the voluntary repatriation of Afghan citizens in Pakistan shall also apply to those Afghan citizens who may return to Afghanistan by their own means.

#### **Article 14**

##### **Information and Sensitization**

1. UNHCR shall in cooperation with other parties in Pakistan, provide Afghan citizens with objective and accurate information on which they may base their decision to repatriate to and reintegrate in Afghanistan.

2. The Transitional Islamic State of Afghanistan shall take measures with a view to creating conditions conducive to the repatriation and reintegration of returnees in safety and with dignity and, take all necessary measures to sensitize and prepare the population residing in areas of return.

#### **Article 15**

##### **Registration and Documentation**

1. In accordance with UNHCR's mandate to ensure the voluntary character of the decision to return, UNHCR shall undertake, in consultation with the other Parties, the verification and registration of Afghan citizens in Pakistan who wish to repatriate.

2. Duly completed Voluntary Repatriation Forms (VRFs), a sample of which is annexed to this Agreement, shall be recognized by all Parties as valid identity documents in Pakistan and Afghanistan and as a travel document for Afghan citizens' in their return to Afghanistan.

#### **Article 16**

##### **Preservation of Family Unity**

1. In accordance with the principle of family unity, UNHCR, in cooperation with the Parties, shall make every effort to ensure that families are repatriated as units and that involuntary separation is avoided. Where such efforts fail, a mechanism shall be established for their reunification in Afghanistan.

2. In order to preserve the unity of the family, spouses and/or children of repatriating Afghan citizens who are themselves not citizens of Afghanistan shall be allowed to enter and remain in Afghanistan. The principle established herein shall also apply to non-Afghan spouses as well as children of deceased Afghan citizens who may wish to enter and remain in Afghanistan to preserve family links. Accordingly, the

Transitional Islamic State of Afghanistan shall regularize their entry and stay in Afghanistan in accordance with the provisions under its laws on the entry and stay of foreigners and will favorably consider their naturalization.

#### **Article 17**

##### **Special Measures for Vulnerable Groups**

The Parties shall take special measures, within their respective jurisdictions, to ensure that vulnerable groups receive adequate protection, assistance and care throughout the repatriation and reintegration process. In particular, measures shall be taken to ensure that unaccompanied minors are not returned prior to successful tracing of family members or without specific and adequate reception and care-taking arrangements having been put in place in Afghanistan.

#### **Article 18**

##### **Designated Border Crossing Points and Transit Arrangement**

The Parties shall agree on border Crossing Points for organized voluntary repatriation movements. Such agreements (preferably arrangements) may be modified to better suit operational requirements.

#### **Article 19**

##### **Immigration, Customs and Health Formalities**

1. Government shall simplify and streamline their respective immigration, customs, health and other formalities usually carried out at border crossing points.

2. Returnees' personal or communal property, including household and electronic items, food (UNHCR/WFP food packages) and livestock, shall be exempted by the respective Governments from all custom duties, charges and tariffs, provided that such property is not prohibited for export by the Government of Pakistan.

3. The Governments shall also waive all fees as well as road or other taxes for vehicles, including those, which are part of personal property of returnees, entering or transiting their respective territories under UNHCR's repatriation programme.

## Article 20

### Movement and Security of UNHCR Staff and Resources

1. The Governments shall facilitate the movement of staff and personnel of UNHCR and of its implementing partners as well as vehicles, relief goods and equipment used in the operation into, within and out of Pakistan and Afghanistan.

2. The Governments shall take all appropriate step to ensure the security and safety of UNHCR staff and all other personnel engaged in the repatriation operation provided for under this Agreement.

## Article 21

### Relief Goods, Materials, Equipment and Communication

1. UNHCR shall endeavor to obtain the required from the international community to carry out the repatriation operation. The Transitional Islamic State of Afghanistan, with the support of UNHCR, shall also endeavor to obtain the resource to implement reintegration activities in Afghanistan.

2. The Governments shall exempt from all taxes, duties and levies all relief goods, materials, equipment, vehicles of UN agencies meant official use in the repatriation and reintegration operation. The Governments shall expedite the clearance and handling of such Items.

3. The Governments shall authorize UNHCR to use UN communications equipment, including satellite communications, networks, designated frequencies and networks for cross-border and internal communication between offices, facilitate the allocation of other frequencies. The relevant written authorizations for equipment, frequencies and cross-border networks shall be issued to UNHCR in accordance with national laws and regulations.

## **Article 22**

### **UNHCR Field Offices**

UNHCR may, whenever requires, for the purpose of a more effective discharge of its responsibilities under this Agreement, establish Field Offices at locations to be agreed with the Government concerned.

## **Article 23**

### **Continued Validity of other Agreement**

1. This Agreement shall not affect the validity of or derogate from any existing agreement, arrangements or mechanisms of cooperation between the Parties. To the extent necessary or applicable, such agreements, arrangements or mechanisms may be relied upon and allied as if they formed part of this Agreement to assist in the pursuit of the objectives of this Agreement, namely the voluntary repatriation and reintegration of Afghans.

2. The Tripartite Agreement signed between the Parties in 1993 for the Republic of Afghan citizens shall stand repealed from the date on which this Agreement is signed.

## **Article 24**

### **Validity of Tripartite Agreement under Provisional and Permanent Government Institutions in Afghanistan**

The provisions of this Tripartite Agreement shall be recognized and fully respected by the Institutions as provided for under the "Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions" as well as the Permanent Governments Institutions as foreseen to be established under that Agreement.

## **Article 25**

### **Resolution of Disputes**

Any dispute concerning the interpretation or application of this Agreement, or any matter for which no provision is expressly made herein, shall be resolved amicably through consultations amongst the Parties. In particular, the Parties undertake to address possible questions of statelessness of Afghan refugees and returnees with a

view to reduce its occurrence and seek solutions to address the hardship entailed for possible affected individuals. The Parties may, by consultation, constitute sub-groups or sub-committees to resolve such disputes.

#### **Article 26**

##### **Entry into Force**

This Agreement shall enter into force upon signature by the Parties.

#### **Article 27**

##### **Amendment**

This Agreement may be amended by mutual agreement in writing amongst the Parties.

#### **Article 28**

##### **Termination**

This Agreement shall remain in force until it is terminated by mutual agreement amongst the Parties.

In witness whereof, the authorized representatives of the Parties hereby signed this Agreement

Done....., this..... day of ..... 2003 in three original copies,

For the Government of the Islamic Republic State of Pakistan

For the Transitional Islamic Administration of the Islamic State of Afghanistan

For the United Nations High Commissioner for Refugees